

**AMENDMENT TO THE DRAWING(S)**

Figure 4 has been amended such that (1) it is now in color and (2) contains only 4 A-D and not E-L.. These changes are described in more detail in the "Remarks" portion of this Amendment. Submitted herewith, therefore, is: (1) A Petition For Acceptance of Color Photographs In Lieu Of Drawings Pursuant To Rules Under 37 C.F.R. §1.84(b)(2); and (2) Submission of Formal Drawings, including Figs. 1-6 wherein Figure 4, i.e, the color photograph, is submitted in triplicate. Entry of the formal drawings into the application file is, therefore, respectfully requested.

### **REMARKS/ARGUMENTS**

Claims 1-16 are pending in the application. Claims 1-12 are currently under consideration, whereas claims 13-16 have been withdrawn from consideration by the Examiner as being directed to a non-elected invention. Claims 1-3 and 5-8 have been amended to more clearly recite applicants' invention. No new matter is added by these amendments and their entry is respectfully solicited.

Furthermore, the specification had been amended in the "Brief Description of the Drawings" to add the paragraph concerning the submission of a color photograph required by 37 C.F.R. §1.84 (a)(2) [see the discussion below]. No new matter is added by this amendment.

Entry of the proposed amendments and replacement drawing into this application is respectfully requested. Upon such entry, claims 1-16, as amended, will be pending in the application.

### **ALLOWABLE SUBJECT MATTER**

Applicants note with appreciation the Examiner's comments on pps. 8-9 of the Office Action which state that, while Sheiky et al. is considered the closest prior art to a peptide comprising the amino acid sequence of SEQ ID NO:1, the subject reference does not, however, teach or suggest a peptide comprising the amino acid sequence of SEQ ID NO:1 and, therefore, the peptide comprising the amino acid sequence of SEQ ID NO: 1 appears to be free of the prior art. As discussed further below, applicants have now amended the claims under examination (nos. 1-12) to delete the recitation of SEQ ID NO:2 such that as amended they now recite a peptide marker comprising an amino acid sequence as set forth in SEQ ID NO:1. These claim amendments are deemed by applicants to render the claims under consideration distinguishable over all of the cited art.

### **OBJECTIONS TO THE DRAWINGS AND SPECIFICATION**

The Examiner objects to Figure 4 A-H as submitted with the application as failing to show the immunofluorescence staining of L-peptide-liposome-HPTS complex on NPC cells as

described in the specification. The Office Action states that corrected drawing sheets are required in order to avoid abandonment of the application.

Further to the above, on p. 3 of the Office Action the disclosure is objected to because the specification on page 8, paragraph [0026] describes parts A-D of Figure 4, but not parts E-L.

In response to these objections, applicants submit herewith for approval by the Examiner a set of formal drawings (under separate cover) including a Replacement Sheet for Figure 4 (submitted in triplicate) which constitutes a color photograph including (only) parts A-D and not E-L. Applicants deem that, per 37 C.F.R. §1.84(a)(2) a color photograph is necessary as the only practical medium by which to illustrate the immunofluorescence staining. Also submitted herewith, as noted above, is a Petition, including the required fee, requesting the acceptance of the color figure.

Furthermore, as also discussed above the specification of the application has been amended as required by 37 CFR 1.84 (a)(2) to include the required paragraph noting the existence in the application of a color figure.

The Examiner is respectfully requested to grant applicants' Petition and to enter the set of formal drawings submitted herewith into the file of the present application. It is believed that such entry will additionally overcome the objection to the specification as the Replacement Sheet with Figure 4 contains only parts A-D and does not include E-L. Thus, there is no longer any necessity to amend the specification to describe E-L. No new matter is added by this change, which renders moot the objection to the specification. The Examiner is thus requested to reconsider and withdraw his objections to the drawings and the specification.

#### **CLAIM REJECTIONS UNDER 35 USC §101**

Claims 1 and 5-7 are rejected under §101. According to the Office Action, as written they do not sufficiently distinguish over peptides as they exist naturally.

In response, applicants have amended the subject claims, as suggested by the Examiner, to recite that the peptide(s) are "isolated". These amendments are supported by p. 4, paragraph [0012] of the specification and thus no new matter has been added to the application. The

Examiner is respectfully requested, therefore, to reconsider and withdraw the rejection of applicants' claims under §101.

### **CLAIM REJECTIONS UNDER 35 USC §102**

Claims 1-2, 5, 7-8 and 11 are rejected under 35 USC 102(b) as allegedly anticipated by USP 6,372,720 to Longmuir et al. ("Longmuir") for the reasons given on p. 4 of the Office Action. This rejection is respectfully traversed.

According to the Office Action, Longmuir teaches a liposome complex comprising a non-cationic lipid, a fusogenic peptide and a substance to be delivered to a cell and/or nucleus. Further according to the Office Action, with regard to the fusogenic protein, the reference teaches (col. 3, lines 27-49) a peptide which comprises SEQ ID NO:2 (emphasis supplied by applicants).

In response, as noted above, applicants have amended their claims to delete therefrom the recitation relating to SEQ ID NO: 2 such that the claims, as amended, are directed *inter alia* to a peptide comprising an amino acid sequence as set forth in SEQ ID NO:1.

As pointed out above in the section headed "Allowable Subject Matter", the Examiner states on p. 8 of the Office Action that peptides comprising the amino acid sequence of SEQ ID NO: 1 are free of the prior art.

The Examiner is, therefore, respectfully requested to reconsider and withdraw his rejection of claims 1-2, 5, 7-8 and 11 over Longmuir.

Claims 1-3, 5-8 and 11-12 are rejected under 35 USC 102(b) as allegedly anticipated by Sette et al. (WO 01/00225) as evidenced by Kunisawa et al. for the reasons given on pps. 4-6 of the Office Action. This rejection is also respectfully traversed.

According to the Office Action, the Sette et al. reference teaches a peptide comprised of amino acids having the sequence of SEQ ID NO:2. Applicants have, however, as noted above, now amended their claims to delete the recitation of SEQ ID NO:2 such that the subject claims now recite only SEQ ID NO: 1 which, per the Examiner's remarks on p. 8 of the Office Action, is deemed to be distinguishable over the prior art. The Examiner is therefore respectfully requested to also reconsider and withdraw the §102 rejection based on Sette et al. and Kunisawa et al.

### **CLAIM REJECTIONS UNDER 35 USC §103**

Claims 3-5 and 9-10 are rejected under 35 USC 103(a) as being allegedly “obvious” to one of ordinary skill in the art over Martin et al. (2002/0172711 A1, 2002) in view of Longmuir et al. (USP 6,372,720) for the reasons given on pps. 6-7 of the Office Action. This rejection is respectfully traversed.

According to the Office Action, Martin et al. teach a fusogenic liposome composition but does not explicitly teach that the fusogenic peptide comprises SEQ ID NO:2. The Examiner has, therefore, combined the subject reference with the patent of Longmuir et al. which discloses a fusogenic peptide comprised of amino acids having the sequence of SEQ ID NO:2.

As noted above, however, applicants have now amended their claims to delete the recitation of SEQ ID NO: 2 therefrom such that the subject claims, as now amended, recite only SEQ ID NO:1. As noted, SEQ ID NO: 1 is identified by the Examiner as being distinguishable over the prior art. The Examiner is, therefore, respectfully requested to reconsider and withdraw the rejection of claims 3-5 and 9-10 under §103.

Claims 3-5 and 9-10 are also rejected under §103(a) over Sette et al., as evidenced by Kunisawa et al., in view of Vaage et al. for the reasons given on pps. 7-8 of the Office Action. This rejection is also traversed by applicants.

According to the Office Action, Sette et al. is cited due to its disclosure of a peptide having the sequence of SEQ ID NO:2. Further according to the Office Action, Sette et al. do not teach a liposome further comprising a chemotherapeutic agent such as doxorubicin. Therefore, the Examiner has combined the subject reference with Vaage et al. which discloses tissue distribution and therapeutic effect of intravenous or encapsulated liposomal doxorubicin on human prostate carcinoma xenografts, in an effort to supply a missing element.

In response, applicants submit that the claims as amended now no longer recite a peptide comprised of amino acids having the sequence of SEQ ID NO: 2. As amended, the only sequence recited in the claims is SEQ ID NO:1. As this sequence has been identified as being free of the prior art by the Examiner, it is respectfully submitted that the claims as amended are distinguishable over the art cited to reject the claims. Thus, the rejection under §103 over the combination of Sette, Kunisawa et al. and Vaage et al. should be withdrawn.

## SUMMARY

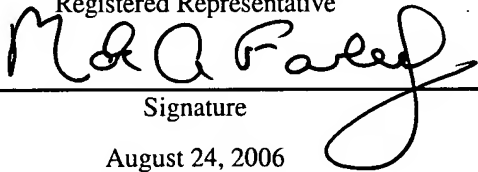
Applicants believe that the amendments and comments provided above serve to overcome all of the Examiner's objections and rejections concerning this application. As such, the Examiner is respectfully requested to reconsider and withdraw his objections and rejections and to pass the application through to issuance.

If there are any remaining issues which the Examiner believes could be resolved by an interview, he is respectfully invited to telephone applicants' representative at the number below and arrangements for such an interview will be made.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on: August 24, 2006

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Name of applicant, assignee or  
Registered Representative

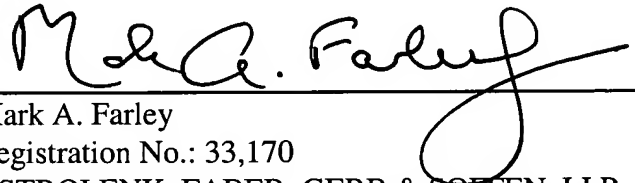


Signature

August 24, 2006

Date of Signature

Respectfully submitted,



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